

AFFIDAVIT

I, Douglas A. Hunt, Special Agent of the Federal Bureau of Investigation, being duly sworn, hereby declare as follows:

I. INTRODUCTION

A. Professional Background

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI") and have been so employed since October 1995. I am currently assigned to the FBI's San Francisco Division, Oakland Resident Agency, Violent Crimes Squad. In that capacity, I investigate various violent and firearms-related crimes in Alameda County and Contra Costa County. As a federal agent, I am authorized to investigate violations of the laws of the United States and I am a law enforcement officer with authority to execute warrants issued under the authority of the United States.

B. Purpose Of Affidavit

2. This affidavit is being submitted in support of a criminal complaint and arrest warrant charging MAX JOSEPH PLOG-HOROWITZ with false impersonation of a federal officer in violation of 18 U.S.C. § 912. Additionally, this affidavit is being submitted in support of applications for search warrants for: (1) PLOG-HOROWITZ's residence at 3115 Guido Street Oakland, California 94602 (the "Residence"); (2) PLOG-HOROWITZ' vehicle, a 2012 Ford F-250 truck with California License Plate Number 04507B1, registered to Michael and Max Horowitz (the "Truck"); and (3) PLOG-HOROWITZ' Apple iPhone with telephone number (707) 327-6726, which is currently in the custody of the Hayward Police Department (the "iPhone").

3. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, arrest warrant, and search warrants, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to (1) establish probable cause to believe that, on or about July 9, 2012, PLOG-HOROWITZ falsely pretended to be a Federal Police Officer acting under the authority of the

1 United States Department of Defense, and acted as such and/or demanded and obtained a thing of
2 value, in violation of 18 U.S.C. § 912; and (2) establish probable cause to believe that evidence,
3 fruits, and instrumentalities of PLOG-HOROWITZ' violation of 18 U.S.C. § 912 will be located
4 at 3115 Guido Street Oakland, California 94602, in a 2012 Ford F-250 truck with California
5 License Plate Number 04507B1, and in an Apple iPhone with telephone number (707) 327-6726.
6 The statements contained in this affidavit are based on information provided to me by law
7 enforcement officers and my own investigation, as well as my training, experience, and
8 knowledge of this investigation.

9 **C. Applicable Statute**

10 4. The elements of 18 U.S.C. § 912 are as follows: (1) defendant falsely pretended to be
11 an officer acting under the authority of the United States; and (2) defendant acted as such or in
12 such pretended character demanded or obtained a thing of value.

13 **D. Affidavit Organization**

14 5. This affidavit is organized into the following sections, all of which are intended to
15 establish probable cause to search the requested locations for the items to be seized: (I)
16 Introduction; (II) Probable Cause; (III) Items to be Seized; and (IV) Conclusion.

17 **II. PROBABLE CAUSE**

18 **A. Report Of PLOG-HOROWITZ' Impersonation Of Federal Police Officer.**

19 6. On or about July 20, 2012, an investigator from the United States Air Force reported
20 to the Hayward Police Department that a police officer from the Broadmoor Police Department
21 had seen an individual in a police equipment supply store in Hayward, California during the first
22 week of July 2012 that was wearing a uniform bearing the words: "U.S. Department of Defense
23 Federal Officer." Specifically, the individual was wearing a long-sleeve, tan, button-up shirt
24 embroidered with "M. Horowitz" above the right breast, "U.S. Department of Defense Federal
25 Officer" above the left breast, and with patches bearing the words: "Police, Department of
26 Defense, United States of America" on both shoulders. The individual was also wearing tan
27 pants, a tan belt, and brown boots. Additionally, the individual was armed with a handgun that

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1 he carried in a holster on his hip, along with two additional magazines. The individual had
2 identified himself as "Max Plog-Horowitz." During a conversation, PLOG-HOROWITZ told the
3 officer from the Broadmoor Police Department that he was a "federal police officer," and he had
4 a smaller Heckler & Koch handgun for a back-up in addition to the handgun he was presently
5 carrying.

6 7. The investigator from the United States Air Force reported that he spoke with the
7 manager of the police equipment supply store and learned that PLOG-HOROWITZ had
8 purchased items on July 13, 2011 (immediately before he enrolled in the police academy as
9 discussed below), April 19, 2012, June 28, 2012, and July 9, 2012. During a follow-up inquiry, a
10 detective from the Hayward Police Department learned that PLOG-HOROWITZ had purchased,
11 among other things, a duty belt with police accessories, a California Vehicle Code book, and
12 ammunition, and had most recently purchased a box of 9mm hollow point ammunition. PLOG-
13 HOROWITZ had also ordered a badge holder for a "Federal Police Officer" style badge that
14 would be delivered to the store between July 23, 2012 and July 27, 2012.

15 8. According to a representative from the police equipment supply store, the company
16 does not sell any firearms or ammunition to non-law enforcement personnel. When PLOG-
17 HOROWITZ purchased the ammunition on July 9, 2012, he represented himself to be a federal
18 law enforcement officer; indeed, during all of his visits to the store, he represented himself to be
19 a federal law enforcement officer. According to invoices from the police equipment supply store,
20 PLOG-HOROWITZ purchased the following items, among other items and in addition to the
21 items mentioned above: (1) a red gun training model Sig P228/229; (2) a set of handcuffs and a
22 handcuff key; (3) a baton ring for a police duty belt; (4) a pouch for OC spray for the duty belt;
23 (5) a wallet for a badge; and (6) a second box of 9mm ammunition. Many of these items (such as
24 the red training gun, handcuffs and key, duty belt, baton ring, and pouch for OC spray) were
25 purchased on July 13, 2011, when PLOG-HOROWITZ was about to begin the police academy.
26 He was removed from the police academy, however, in July 2011, but continued to purchase
27 items. In the "sold to" box of the invoice on June 28, 2012, it states: "MAX HOROWITZ,
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1 DEPARTMENT OF DEFENSE, 707-327-6726." The telephone number is the number for the
2 iPhone. On the July 9, 2012 invoice, the "sold to" box states: "MAX HOROWITZ, FEDERAL."

3 9. During one visit to the police equipment supply store, PLOG-HOROWITZ showed
4 the manager of the store photos on his iPhone of a Glock he claimed to have recently purchased,
5 as well as photos of himself holding what appeared to be assault weapons.

6 **B. July 23, 2012 Arrest Of PLOG-HOROWITZ And Search Of The Truck.**

7 10. On July 23, 2012, the manager from the police equipment supply store called the
8 detective from the Hayward Police Department to report that PLOG-HOROWITZ was in the
9 store. When the detective arrived, he saw PLOG-HOROWITZ who was armed with a
10 semiautomatic handgun in a holster on his hip. PLOG-HOROWITZ was also wearing a badge
11 on his belt that was embossed with "Officer," "Department of Defense," "Police," and badge
12 number "7651." The detective detained PLOG-HOROWITZ in handcuffs, confirmed his
13 identity, and confirmed that he lived at the Residence.

14 11. The detective also removed the handgun from PLOG-HOROWITZ' holster and
15 determined that it was a Heckler & Koch 9mm semiautomatic handgun with serial number 24-
16 116889. According to the Automated Firearms System, the handgun was registered to Michael
17 Horowitz at the Residence. When asked, PLOG-HOROWITZ confirmed that the handgun was
18 loaded with a round of ammunition in chamber.

19 12. During a subsequent search of PLOG-HOROWITZ, the detective recovered the
20 following: (1) a black spike in the shape of a pen; (2) a small tan flashlight; (3) a tan folding
21 knife; (4) a silver knife/dagger; and (5) a business card holder with two business cards bearing
22 the following: "U.S. Department of Defense Police," "Patrol Operations Division," Max Joseph
23 Horowitz," "Police Officer," "Badge #7651," and "Dispatch: 510-992-6529." (I called that
24 telephone number on or about August 13, 2012, and it forwarded to a voicemail for a "707"
25 telephone number. Another agent called 510-992-6529 on August 15, 2012 and a male
26 individual answered.) The reverse side of the business cards contained blanks labeled: "case
27 number," "Involved Parties," and "date/time/location/charges." In PLOG-HOROWITZ' wallet,

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1 the detective recovered: (1) a Department of Defense 60th Anniversary commemorative badge;
2 (2) a United States Army identification card; and (3) a Department of Defense Police Officer
3 identification card bearing the name Max Joseph Horowitz.

4 13. PLOG-HOROWITZ also consented to the search of the Truck, which is registered to
5 Michael Horowitz and Max Horowitz at the Residence. Inside the Truck, PLOG-HOROWITZ
6 had his dog, a Belgian Malinois, which is a common police canine breed. During a search of the
7 Truck, the detective noted that four lights had been attached to the grill of the vehicle. The lights
8 appeared to have been controlled by a module inside the Truck, but it was disconnected. Inside
9 the Truck, the detective recovered: (1) several folding knives; (2) business cards bearing the
10 words: "Max J. Plog-Horowitz," "U.S. Army Military Police," and telephone number "(707)
11 327-6726" (the telephone number of the iPhone); (3) a small can of OC spray; (4) a locked case
12 containing two magazines (one loaded) and a set of handcuffs; (5) a pair of tan boots, pants, and
13 a long-sleeve, tan, button-up shirt with embroidery and patches similar to that described by the
14 officer from the Broadmoor Police Department; (6) a black jacket embroidered with "U.S.
15 Department of Defense Security Forces," and "M. Horowitz K-9;" (7) a disconnected vehicle air
16 horn and disconnected LED lights; (8) a leg holster for a handgun; and (9) two boxes of 9mm
17 ammunition (Winchester Law Enforcement Ammunition), one of which contained only 10
18 bullets.

19 14. Receipts from L.C. Action Police Supply, LTD. in San Jose (for pants, a shirt, and
20 boots) and L.N. Curtis & Sons in San Francisco were also recovered from the Truck. The receipt
21 for L.N. Curtis & Sons was dated June 4, 2012 and indicates the purchase of a "LED Flatlighter
22 Visor Light - Red/Blue" and a "LED Strobe - Blue." In the "customer order number" blank of
23 the receipt, it states: "HOROWITZ VISA." In the "ship to" blank, it states: "DOD - Travis AFB,
24 ATTN: MAX HOROWITZ, WILL CALL, OAKLAND, CA 94607."

25 15. During an interview, following admonishment of his Miranda rights, PLOG-
26 HOROWITZ admitted that he was not a federal police officer and that the handgun from his
27 holster was owned by his father. PLOG-HOROWITZ also stated that he had enlisted in the
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1 Army and that in April 2012, while using a computer terminal at the recruitment center, he
2 accessed a folder containing various identification cards. He then created a "Department of
3 Defense Federal Police Officer Identification Card" with his photo, a badge number, and a false
4 date of birth (so he could purchase alcohol). PLOG-HOROWITZ stated that he used the card to
5 purchase beer once and a few times to purchase law enforcement equipment. PLOG-
6 HOROWITZ further stated that he had created the federal police officer persona to discourage a
7 former roommate with whom he had a hostile relationship from harming him. He stated that he
8 obtained two federal police officer patches and had a uniform embroidered at a dry cleaner in San
9 Francisco. He then had business cards made and obtained a badge from an internet-based store
10 that sells recycled badges. PLOG-HOROWITZ denied having used his uniform and federal
11 police persona to arrest or detain people or to enforce laws. He stated that he had openly carried
12 his loaded handgun in the past, but only at locations where he believed his uniform would go
13 unchallenged. PLOG-HOROWITZ stated that he lived at the Residence with his parents. The
14 Residence is also the address listed on PLOG-HOROWITZ' California Driver License.

15 C. **Prior Law Enforcement Contacts With PLOG-HOROWITZ.**

16 16. On or about March 29, 2011, PLOG-HOROWITZ reported that a shotgun had been
17 stolen from his residence in Cotati, California. At the time of the report, PLOG-HOROWITZ
18 allowed the Cotati Police Department officers to look around his residence. In PLOG-
19 HOROWITZ' bedroom, an officer saw a loaded shotgun leaning against the wall. When the
20 officer asked if there were any other loaded firearms, PLOG-HOROWITZ directed the officer to
21 a large, black case, which contained two AR-15 assault rifles with flash suppressors and 10 30-
22 round magazines (four of which were loaded). PLOG-HOROWITZ told the officer that he had
23 lawfully purchased the firearms and pieced the magazines together from "pre-ban" magazines.

24 17. On or about July 19, 2011, PLOG-HOROWITZ was arrested by the Cotati Police
25 Department pursuant to an arrest warrant based upon his possession of an assault weapon
26 (stemming from the above contact). In response to questions, PLOG-HOROWITZ informed the
27 arresting officer that there were unloaded firearms locked in his trunk (he was driving a Cadillac
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1 sedan that he owned). In the trunk, the officer recovered: (1) a police baton; (2) an unloaded
2 shotgun; (3) a Sig Sauer, Model P229, .40 caliber semiautomatic handgun in a locked case; (4)
3 several 12-round magazines loaded with .40 caliber ammunition; (5) an air soft gun, that looked
4 like a Glock handgun, with the orange paint removed from the tip; and (6) two cans of OC spray.
5 During a post-arrest interview, PLOG-HOROWITZ said that the handgun was registered to his
6 father, but his father had given it to him as a gift, and was in the process of changing the
7 registration. PLOG-HOROWITZ stated that he had the police baton because he was enrolled in
8 the police academy (in which he was enrolled from July 18, 2011 to July 21, 2011, when he was
9 removed for violation of academy rules). PLOG-HOROWITZ stated that he had the firearms in
10 his car because his landlord would be inspecting his residence and he did not want the landlord to
11 have access to his firearms.

12 18. According to a complaint filed by PLOG-HOROWITZ in the Northern District of
13 California (Case No. 3:12-cv-00452 SI), the California Department of Justice Bureau of Forensic
14 Services issued a report stating that the firearms possessed by PLOG-HOROWITZ were not
15 "assault weapons." Also according to the complaint, the Sonoma County District Attorney's
16 Office dismissed all charges on December 12, 2012 (sic).

17 **III. ITEMS TO BE SEIZED**

18 19. Based on my training, experience, and knowledge of this investigation as set forth
19 above, I seek authorization to seize the following items from the Residence and the Truck:

20 (1) All semiautomatic handguns, ammunition and magazines for such handguns, holsters
21 for such handguns, and other accessories for such handguns;

22 (2) Police-related equipment/accessories, uniforms, identifications, badges, patches, and
23 vehicle lights/sirens;

24 (3) Items PLOG-HOROWITZ purchased while impersonating a federal police officer;

25 (4) Records of purchase or acquisition of police-related equipment/accessories,
26 uniforms, identifications, badges, patches, and vehicle lights/sirens; and

27 (5) Evidence of the manufacture of police identification cards.

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1 20. Based on my training, experience, and knowledge of this investigation as set forth
2 above, I seek authorization to seize the following items from the iPhone:

3 (1) Logs of calls (which would include last numbers dialed, last calls received, time of
4 calls and duration of calls) both to and from the iPhone;

5 (2) Text messages, voice messages, browser messages, and internet communications
6 sent to and received from the iPhone, which relate to the purchase or acquisition of police
7 equipment, and/or PLOG-HOROWITZ' impersonation of a police officer;

8 (3) Images of PLOG-HOROWITZ with firearms that he showed to the manager of the
9 police equipment supply store while impersonating a federal police officer; and

10 (4) Images of PLOG-HOROWITZ impersonating a federal police officer.

11 21. The iPhone will be searched following the approved procedures provided in the
12 "Attachment C" attached to the Search Warrant for the iPhone (and attached hereto as
13 "Attachment C" for ease of reference).

14 **IV. CONCLUSION**

15 22. For the reasons stated above, I believe that probable cause exists to believe that, on
16 or about July 9, 2012, MAX JOSEPH PLOG-HOROWITZ falsely pretended to be a Federal
17 Police Officer acting under the authority of the United States Department of Defense and acted as
18 such and/or demanded and obtained a thing of value, in violation of 18 U.S.C. § 912. I further
19 believe that probable cause exists to believe that evidence, fruits, and instrumentalities of PLOG-
20 HOROWITZ' violation of 18 U.S.C. § 912 will be located at 3115 Guido Street Oakland,

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1 California 94602, in a 2012 Ford F-250 truck with California License Plate Number 04507B1,
2 and in an Apple iPhone with telephone number (707) 327-6726. I respectfully request that the
3 Court issue the requested complaint, arrest warrant, and search warrants.

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6 Douglas A. Hunt
Special Agent, Federal Bureau of Investigation

7 Sworn to before me this
8 16 day of August 2012.

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10 HONORABLE NANDOR J. VADAS
UNITED STATES MAGISTRATE JUDGE

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